

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION**

<b>LYNDON WILLIAMS,</b>	:	
	:	
Appellant,	:	
	:	Civ. Action No. 7:98-cv-104 (HL)
vs.	:	
	:	Crim. Action No. 7:96-cr-41 (HL)
	:	
<b>UNITED STATES OF AMERICA,</b>	:	
	:	
Appellee.	:	

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**ORDER**

Before the Court is Appellant's notice of appeal from the Court's Order denying his Motion to Modify Term of Imprisonment filed pursuant to 18 U.S.C. § 3582(c)(2).

The Eleventh Circuit Court of Appeals has mandated that the court construe a notice of appeal from the denial of a petition filed under 28 U.S.C. § 2254 or § 2255 as an application for a certificate of appealability ("COA") pursuant to 28 U.S.C. § 2253(c). *Edwards v. United States*, 114 F.3d 1083 (11th Cir. 1997). Under section 2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. Because Williams is appealing the denial of his motion to modify his term of imprisonment under 18 U.S.C. § 3582(c)(2) rather than from the denial of a 28 U.S.C. § 2255 motion, he is not required to obtain a COA in accordance with 28 U.S.C. § 2253(c).

Nevertheless, to the extent that the denial of his motion of modification of his term of imprisonment may be construed as a 28 U.S.C. § 2255 motion, the Court finds that Williams has not made a substantial showing of the denial of a constitutional right. Accordingly, the application for a COA is **DENIED**.

Further, Appellant's motion to proceed *in forma pauperis* on appeal is hereby **DENIED**. If Appellant wishes to proceed with his appeal, he must pay the entire appellate filing fee.

**SO ORDERED**, this 27<sup>th</sup> day of July, 2005.

s/ Hugh Lawson  
**HUGH LAWSON, JUDGE**

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